IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO.195 OF 2007
IN
CRIMINAL APPEAL NO.1289 OF 2003

Narsing Motisa Arshid and anr. ..Applicants.
Vs.
The State of Maharashtra. ..Respondent.

Mr.V.S.Sugdare for the Applicants.
Mr.K.V.Saste, APP. for the State.

CORAM: B.H.MARLAPALLE &
R.S. MOHITE, JJ.
DATE : 1st March, 2007 '

P.C.

1. Heard Mr. Sugdare, the learned counsel for the applicants who have filed Criminal Appeal No.1289 of 2003 but belatedly. However, the said appeal came to be dismissed in default on 3.10.2006. This application has been filed for restoration of the said appeal. It is also admitted that the appeal is filed belatedly and as per the office note the application is beyond time by 102 days.

2. We have noted from the record that the appeal was filed through Jail and the Advocate appointed i.e. Mr.Kothari did not file his Vakalatnama for about three years and therefore, the appeal was dismissed.

3. We are satisfied that the order of dismissal of the

appeal in default would not serve the interest of justice and this is a fit case where the delay deserves to be condoned, by restoring the appeal, so that, it is decided on merits.

4. Hence, delay condoned and the application is allowed in terms of prayer clause (a) and (b).

(R.S. MOHITE, J.) **(B.H. MARLAPALLE, J.)**

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1. Heard Mr. Sugdare, the learned counsel for the applicant-accused No.2. When Criminal Appeal No.1289 of 2003 was admitted, one of the appellant i.e. present applicant was released on bail by this court by its order dated 24.11.2003. However, on account of failure of the learned Advocate appointed for the appellants, the appeal came to be dismissed and therefore, the appellant No.2 has filed this application for release on bail on restoration of the appeal.

2. We have noted that the applicant is beyond 70 years of age and she was granted bail by this court but the same could not be availed by her.

3. Hence, affidavit is dispensed with and the applicant

is directed to be released on bail on furnishing P.R. bond in the sum of Rs.5000/- with one solvent surety in the like amount.

4. Paper book in the appeal be expedited and the appeal be added to the present final hearing board as soon as the paper book is ready.

(R.S. MOHITE, J.) **(B.H. MARLAPALLE, J.)**